

Docket No. 1232-4730

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Kazumi SUGA

Group Art Unit: 3621

Serial No.: 09/894,481

Examiner: Hayes, John W.

Filed: June 27, 2001

For: ELECTRONIC COMMERCE SYSTEM, ELECTRONIC COMMERCE METHOD
AND STORAGE MEDIUM

CERTIFICATE OF MAILING (37 C.F.R. §1.8(A))

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I hereby certify that the attached:


1. Response to Restriction Requirement
2. Return Receipt Postcard

along with any paper(s) referred to as being attached or enclosed and this Certificate of Mailing are being deposited with the United States Postal Service on date shown below with sufficient postage as first-class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

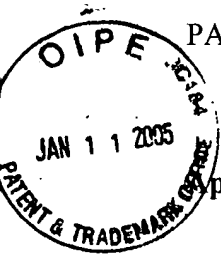
Dated: January 7, 2005

By: _____


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RESPONSE TO RESTRICTION REQUIREMENT

In response to the Official Action dated December 7, 2004 in which the pending claims 34-51 were subject to a Restriction Requirement, Applicant submits the following:

In the Official Action, restriction under 35 U.S.C., §121 is required to one of the following groups of inventions:

- I. Claims 34-39 and 50 drawn to a system, method and storage medium for sending electronic contents between buyers and sellers via a network, classified in class 705, subclass 37.
- II. Claims 40-49 and 51, drawn to a system, method and storage medium for evaluating electronic contents between buyers and sellers via a network, classified in class 705, subclass 10.

Applicant provisionally elects Group I claims 34-39 and 50 for prosecution on the merits. This election is made with traverse.

For the reasons stated in the Office Action, it is the Examiner's position that restriction is proper because the identified inventions are distinct and have acquired separate status in the art. (See Office Action, ¶2, pages 2.)

Applicant respectfully does not necessarily agree with the Examiner's characterizations of the stated inventions. Moreover, Applicant respectfully submits that it is not an undue burden on the Examiner to search the same class 705 for the claims that constitute Group II, as part of a search of the provisionally elected Group I claims.

According to M.P.E.P. §803, there are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (1) The inventions must be independent or distinct as claimed; **and**
- (2) There must be serious burden on the examiner if restriction is not required.

Even assuming arguendo the Examiner's characterization of the inventions as being separate and distinct, Applicant submits the second criteria set forth above is not met. More specifically, in examining the claims of Group I, also examining, the claims in Group II, which as admitted by the Examiner are related to Group I (see ¶2, page 2), would not pose a serious burden on the Examiner beyond that incurred in examining the provisionally elected claims of Group I.

Applicant respectfully submits that: (1) all groups of restricted claims are properly presented in the same application; (2) undue diverse searching would not be required; and (3) all claims should be examined together. Applicant thus respectfully traverses the requirement for restriction on the grounds that searching all of these inventions would not be unduly burdensome and, in fact, an overlap of searching would be necessary to ensure a complete search for a proper examination on the merits of any one of the identified Groups of Inventions.

Accordingly, Applicant respectfully submits that the Requirement for Restriction is improper for at least the reasons stated, and requests that the Restriction Requirement be

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withdrawn and all pending claims be examined on the merits.

AUTHORIZATION

No additional fees or extensions of time are believed necessary in connection with this response. Should an extension of time be required, such extension is petitioned. The Commissioner is authorized to charge any fees or credit any overpayments which may be required for this paper to Deposit Account Number 13-4500, Order No. 1232-4730.


An early and favorable examination on the merits is respectfully requested.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Dated: January 7, 2005

By:


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